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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/899,711

07/05/2001

Dana Corbo

4051

7590 01/21/2004  
STEPHEN E. FELDMAN, P.C.  
12 East 41st Street  
New York, NY 10017

EXAMINER

COBURN, CORBETT B

ART UNIT

PAPER NUMBER

3714

DATE MAILED: 01/21/2004

18

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/899,711

**Applicant(s)**

CORBO, DANA

**Examiner**

Corbett B. Coburn

**Art Unit**

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-8, 10-24 and 26-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-8, 10-24 and 26-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \*   c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Drawings*

1. Applicant has stated that new drawings have been provided. These were not attached to the reply to the office action. Applicant is urged to resubmit the drawing corrections.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 6-8, 11-13, 22-24, 27 & 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Don Best Sports in view of Brenner et al. (US Patent Number 5,830,068).

**Claims 1, 6, 11, 22, 27:** Don Best Sports provides sporting event odds and information for sports books in substantially real time. The DBS2K program uses the Internet to provide real time odds and information. The program is incapable of placing bets. Don Best Sports provides a means downloading and storing to the user's computer information about occurrences in connection with odds, analyzing the information and alerting the user when a predetermined occurrence takes place in connection with the odds. (Line Move Alerts.) Don Best Sports provides a means for logging and tracking bets. (Bet Tracker) Don Best Sports offers a Line Seeker feature that provides an alert when predetermined odds on a particular game are offered by a sports book enabling the user to get the information needed automatically. It provides a means for display of this information (i.e., computer monitor). There is a means for navigating the display in order

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to acquire information – see DBS Premium Service sample page. This navigation means is a menu made up of various menus made up of various buttons equipped with pull down menus and, for any particular game or bet, the program is capable of visually cycling through odds from different sports books. Applicant admits that Don Best Sports allows for the display of odds to be manipulated for more efficient use.

Don Best Sports appears to use a web browser as the user interface. Use of purpose built programs as a user interface is notoriously well known in the art. Use of purpose built programs allows the author of the program to control the look and feel (i.e., usability and design features) of the user interface. Brenner teaches but one example of a purpose built user interface used in a sports betting environment. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Don Best Sports in view of Brenner to use a non-web browser user interface in order to have greater control over the look and feel and usability of the user interface.

**Claims 2, 23:** Don Best Sports offers a Line Seeker feature that provides an alert when predetermined odds on a particular game are offered by a sports book.

**Claims 3, 24:** Don Best Sports provides a Line Move Feature that provides notification when the odds offered by a sports book change by a predetermined amount within a predetermined amount of time.

**Claims 28:** The DBS Premium Service sample page shows a menu made up of various buttons and the buttons are equipped with pull down menus.

**Claim 7:** Don Best Sports Bet Tracker allows the user to enter a bet and bet amount and provides a means for determining whether the bet was won or lost.

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**Claim 8:** Don Best Sports Bet Tracker calculates and logs winnings and losses.

**Claim 12:** The DBS Premium Service sample page shows the display of casino columns.

These appear to be customizable in that the user can choose to display different casino columns.

**Claim 13:** The DBS Premium Service sample page shows horizontal and vertical scrolling bars.

4. Claims 5, 10, 21, 26, 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Don Best Sports and Brenner as applied to claim 1, 6, 11, 22, or 27 above, and further in view of Zinda et al. (US Patent Number 6,393,437).

**Claims 5, 10, 21, 26, 29:** Don Best Sports and Brenner teach the invention substantially as claimed. According to Applicant's disclosure, Don Best Sports is written in Java and not in C++. Java and C++ are extremely well known equivalents. Zinda, a patent concerning web development techniques, teaches that either language may be used to develop web-based applications. (Col 4, 7-11) It would have been obvious to one of ordinary skill in the art at the time of the invention to have used the C++ programming language instead of its well know equivalent Java in order to achieve the same functionality.

5. Claims 14-19 rejected under 35 U.S.C. 103(a) as being unpatentable over Don Best Sports and Brenner as applied to claim 11 above, and further in view of the Human Factors Design Guide.

**Claim 14:** Don Best Sports and Brenner teach the invention substantially as claimed, but do not specifically teach a feature that turns a page every five seconds. The Human

Factors Design Guide (page 8-46) states, “if automatically changing data must be read reliably and accurately, the rate of update should not be more than once per second.” It would have been obvious to one of ordinary skill in the art at the time of the invention to have turned the page every five seconds in order to allow the information to be read reliably and accurately.

**Claims 15 & 18:** Don Best Sports and Brenner teach the invention substantially as claimed but do not specifically teach using a color-coded display. The Human Factors Design Guide (page 8-50) states that color-coding (including highlighting) should be used to direct a user’s attention to something. It would have been obvious to one of ordinary skill in the art at the time of the invention to have used color-coding or highlighting to direct the user’s attention to the display of odds.

**Claim 16:** Don Best Sports & Brenner teaches the invention substantially as claimed but do not specifically teach moving the casino column by the click and drag method. The Human Factors Design Guide (page 8-62) teaches the click and drag method of moving windows. This allows the user to take advantage of the pointing device (mouse) to move the window. It would have been obvious to one of ordinary skill in the art at the time of the invention to have used the click and drag method to move the casino columns in order to allow the user to take advantage of the pointing hardware.

**Claims 17 & 19:** Don Best Sports and Brenner teach the invention substantially as claimed but do not specifically teach resizing the casino columns to a custom setting. The Human Factors Design Guide (page 8-62) teaches allowing the user to resize windows. This allows the user to make the window the size the user prefers – including

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abbreviating the window to allow more windows to be displayed (i.e., more columns per page). It would have been obvious to one of ordinary skill in the art at the time of the invention to have allowed the user to resize the casino columns (including abbreviating the column to allow more columns to be displayed per page), so that the user can make the windows suit the user's preferences.

### ***Response to Arguments***

6. Applicant's arguments filed 14 November 2003 have been fully considered but they are not persuasive.

7. Applicant argues that a rejection under 35 USC § 103 is inappropriate where the primary reference being modified is left unsatisfactory for its intended purpose. Applicant then states that modification of Don Best Sports to have a different user interface would render Don Best Sports unsatisfactory for its intended purpose. In making this assertion, Applicant relies on a Declaration by the inventor. However, this declaration is not in evidence and cannot be considered. Applicant's assertion in the instant reply that modifying Don Best Sports to use a different user interface is not convincing. Don Best Sports appears to be intended to provide sports and sports betting information to a consumer. Any modification of user interface that still provides sports and sports betting information to a consumer would still leave Don Best Sports satisfactory for its intended purpose.

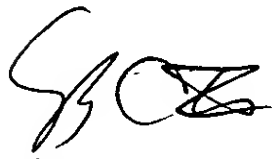
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corbett B. Coburn whose telephone number is (703) 305-3319. The examiner can normally be reached on 8-5:30, Monday-Friday, alternate Fridays off.

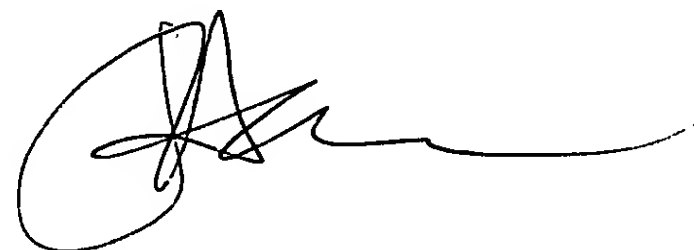
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on (703) 308-1806. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



cbc



JESSICA HARRISON  
PRIMARY EXAMINER